



Dep. and Ref.
Room 307

Atty. Dkt. No. 036481-0106TY
BRANCH

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2004 MAY -7 PM 3:43

Applicant: FULLER, James T.

Title: MINIMAL PROMOTERS AND USES THEREOF

Appl. No.: 09/421,778

Filing Date: 10/19/1999

Examiner: Quang NGUYEN

Art Unit: 1636

REQUEST FOR REFUND

Mail Stop 16
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant hereby requests a refund of \$860.00 for the Notice of Appeal fee and third-month extension of time fee that was paid on February 27, 2004, in the above-identified application. Attached is a copy of check no. 34390 in the amount of \$860.00 and the February 27, 2004 date-stamped postcard.

Applicant received an Office Action dated August 27, 2003, stating that it was a final Office Action. On February 5, 2004, Applicant's representative contacted Examiner Nguyen to determine whether the Examiner would be willing to consider amendments after final. The Examiner indicated that the last Office Action was, in fact, a non-final Office Action and that the coversheet of the August 27, 2003 Office Action improperly stated that it was final.

In response, Applicant submitted a response to the final Office Action on January 26, 2004, and Examiner Nguyen agreed to write an Interview Summary and mail it to the address of record prior to the six-month deadline, February 27, 2004. Not having received written confirmation that the Office Action was non-final, and in an abundance of caution,

Applicant No. 09/421,778
Atty. Dkt. No. 036481-0106

Applicant filed a Notice of Appeal (copy attached) on February 27, 2004 to prevent their application from becoming abandoned. MAY 7 PM 3:44

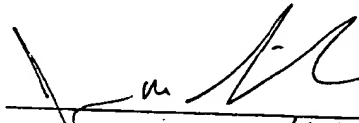
On April 28, 2004, Examiner Nguyen faxed Applicant's representative a copy of the Interview Summary confirming that the August 27, 2003 Office Action was non-final (copy attached). Therefore, Applicant wishes to withdraw the Notice of Appeal and respectfully requests that a credit of ~~\$860.00~~ (\$330.00 Notice of Appeal Fee and \$530.00 third-month extension of time fee) be made to Deposit Account No. 19-0741.

Respectfully submitted,

Date 5 May 2004

FOLEY & LARDNER LLP
Customer Number: 27476
Telephone: (202) 672-5483
Facsimile: (202) 672-5399

By


410,417

Richard C. Peet
Attorney for Applicant
Registration No. 35,792

Foley And Lardner



STATUS AND ENTRY
BRANCH

2004-7 PM 3:44

THIS DOCUMENT IS VOID IF COLORED BACKGROUND DOES NOT APPEAR ON THE FACE

Foley & Lardner

3000 K Street N.W., Suite 500

Washington, D.C. 20007

PH: (202) 672-5300

65-270/550

No. 34390

February 27, 2004

EIGHT HUNDRED SIXTY AND 00/100 DOLLARS*****

PAY

AMOUNT

ONLY

*****\$860.00

PAY TO THE
ORDER OF

DIRECTOR OF U.S. PATENT & TRADEMARK OFFICE

036481-0106

09/421,778

JAMS JSA

Notice of Appeal & 3EOT

SUN TRUST BANK
ALEXANDRIA, VIRGINIA

Carolyn V. Lince

(Checks over \$2500 require two signatures)

⑈00034390⑈ ⑆055002707⑆ 206894872⑈

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STATUS AND LEGAL
BRANCH

207 MAY -7 PM 3:44

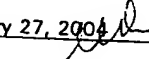
Title: MINIMAL PROMOTERS AND USES THEREOF
Inventor(s): FULLER, James T. Dkt. No. 036481-0106
Appl. No.: 09/421,778 RCP/JAMS/jsa (2/27/04)

13

- Notice of Appeal Transmittal (2 pgs.);
- Check Number 34390 for \$860.00 (NOA fee \$330 & \$530 3EOT).

Commissioner for Patents:

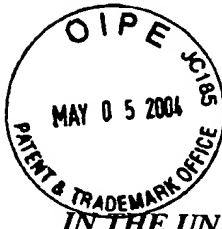
Please acknowledge receipt of the above-identified documents by applying the U.S. Patent and Trademark Office receipt stamp hereto and mailing this card.

Due date: February 27, 2004
Inspected by: 

Respectfully,
Foley & Lardner



BEST AVAILABLE COPY



Atty. Dkt. No. 036481-0106

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: FULLER, James T.
Title: MINIMAL PROMOTERS AND USES THEREOF
Appl. No.: 09/421,778
Filing Date: 10/19/1999
Examiner: Quang NGUYEN
Art Unit: 1636

**NOTICE OF APPEAL FROM THE EXAMINER TO THE BOARD
OF PATENT APPEALS AND INTERFERENCES**

Commissioner for Patents
PO Box 1450
Alexandria, Virginia 22313-1450

Sir:

Applicant hereby appeals to the Board of Patent Appeals from the decision of the final rejection dated August 27, 2003, of the Examiner finally rejecting Claims 1-8, 11-17, 20 and 23-25.

- ☐ Applicant claims small entity status.
- ☒ Applicant hereby petitions for an extension of time under 37 C.F.R. §1.136(a) for the total number of months checked below:
- ☒ Notice of Appeal Fee
- ☒ To be paid as detailed below
- ☐ Not required (Fee paid in prior appeal)

The required fees are calculated below:

<input checked="" type="checkbox"/>	Notice of Appeal Fee	\$330.00
<input checked="" type="checkbox"/>	Extension for response filed within the third month:	\$950.00
<input checked="" type="checkbox"/>	Extension Already Obtained for second month:	\$420.00
	FEE TOTAL:	\$860.00
<input type="checkbox"/>	Small Entity Fees Apply (subtract 1/2 of above):	\$0.00
	TOTAL FEE:	\$860.00

2004 MAY -7 PM 3:44

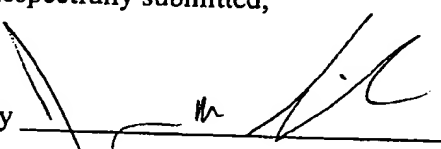
- ☒ A check in the amount of \$860.00 is enclosed.
- ☒ The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

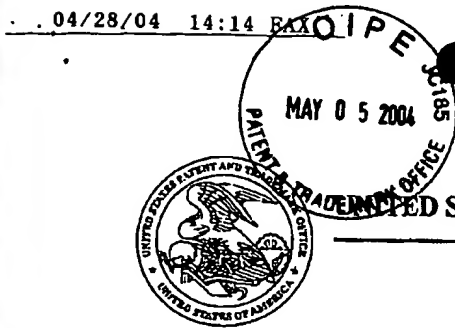
Please direct all correspondence to the undersigned attorney or agent at the address indicated below.

Respectfully submitted,

Date 27 February 2004

FOLEY & LARDNER
Customer Number: 27476
Telephone: (202) 672-5483
Facsimile: (202) 672-5399

By 
for Richard C. Peet 40,413
Attorney for Applicant
Registration No. 35,792



001

STATUS AND
BRANCH

UNITED STATES PATENT AND TRADEMARK OFFICE

QUANG NGUYEN
PATENT EXAMINER
GROUP ART UNIT-1636
PHONE: 703-308-8339
FAX: 703-746-5312

MAY -7 PM 3:44

FAX

To: **Attorney Michelle Walters**

Fax: (202) 672-5399

Pages: 3

Tel.: (202) 672-5370

Date: 4/28/04

Ref: US Application 09/421778

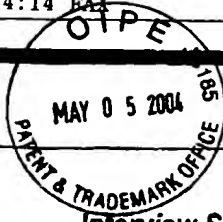
☐ Urgent ☐ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

Comments:

I am faxing you a copy of the Interview Summary for a telephonic interview on 2/5/04 regarding to the status of the above application.

Thanks.

BEST AVAILABLE COPY



Interview Summary

Application No.

09/421,778

Applicant(s)

FULLER, JAMES T.

Examiner

Quang Nguyen, Ph.D.

Art Unit

1836

MAY -7 PM 3:44

All participants (applicant, applicant's representative, PTO personnel):

(1) Michelle Walters.

(3) _____

(2) Quang Nguyen.

(4) _____

Date of Interview: 05 February 2004.Type: a) ☒ Telephonic b) ☐ Video Conferencec) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]Exhibit shown or demonstration conducted: d) ☐ Yes e) ☐ No.

If Yes, brief description: _____

Claim(s) discussed: None.Identification of prior art discussed: None.Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Ms. Walters inquired on the status of the last Office Action mailed on 8/22/03, specifically whether it was a Final or Non-Final Office Action. Examiner confirmed with Ms. Walters that the last Office Action was issued as a non-Final Office Action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's Signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (If Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.